

**MEMORANDUM**

- On September 11, terrorists attacked the United States and killed thousands of Americans and citizens of dozens of other nations. The President of the United States made clear his intention to respond in a broad, sustained way.
- Prior to making specific military recommendations to the President, the Secretary of Defense called for a general briefing on special operations capabilities. The brief was held on September 17, 2001, at the Pentagon.
- The briefers were tasked by the Chairman of the Joint Chiefs, via the Commander-in-Chief of the Special Operations Command, to be innovative and include 'unconstrained' options. A draft of the brief was submitted to staff in Washington for review, at the same time it was presented to the Special Operations Commander.
- This first draft of the briefing contained a slide that included "asymmetric options' that met the standard of being 'unconstrained.' When he viewed the slide, the Special Operations Commander advised the Chairman of the Joint Chiefs of Staff that that slide should not be included in the briefing to the President and Secretary of Defense because some of the options included as 'unconstrained' were obviously unacceptable and in some instances contrary to practice and procedure. The Commander-in-Chief of the Special Operations

Command thus disapproved of the ideas at a very early stage in the briefing preparations.

- Separately, NSC and Defense Department officials apparently arrived at the same conclusion during their reviews of the draft briefing. On the morning of September 17, prior to the briefing, the Secretary's senior military assistant directed the briefer to remove the slide since it was unacceptable. Later that morning, the brief was presented via electronic display to the President and the Secretary of Defense. That version did not include the unacceptable slide.
- In the event that an option that would have been constrained by custom, practice, regulation, statute, or treaty had been recommended to the Secretary of Defense, it would have been caught and stopped during the established process that attends to development of operations orders, force deployment orders, and/or rules of engagement. This same process applies to all the military commanders who deploy forces.
- Prior to consideration by senior political and military leadership, proposed operations and rules of engagement are developed and refined at multiple levels of review and are examined by attorneys within the military command, within the Joint Staff, and by the General Counsel of the Defense Department.

This process would have exposed the many restrictions that would apply to consideration of any ‘unconstrained’ options.

- Based on the matters described above, it would be inaccurate to report that either the Secretary of Defense or President were briefed on any option that would require violating statutory or regulatory constraints.
- The ‘unconstrained’ options were caught and stopped at three levels prior to their viewing the final brief: the Commander of the Special Operations Command, the Office of the Secretary of Defense, and the staff of National Security Council.
- Had there been a specific proposal instead of a general briefing that involved ‘unconstrained’ options, they would have been stopped by the legal review process described in this summary.
- The Department of Defense would not consider such options, has not planned for such activities, nor would such activities be approved as part of Operation Enduring Freedom or any other military activity anywhere else in the world.